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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/902,767

Confirmation No. 9584

In re application of:

Group Art Unit: 1661

Robert Noodelijk

Examiner: Ann Marie Grünberg

Filed: July 12, 2001

For: CHRYSANTHEMUM PLANT NAMED 'WHITE ELITE REAGAN'

REPLY TO REQUIREMENT FOR INFORMATION UNDER 37 CFR 1.105

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant replies to the Requirement for Information under 37 CFR 1.105 mailed May 25, 2005, as follows:

As to parts a) and b) of the requirement, enclosed is a copy of the 1999 version of the CBA catalog displaying 'WHITE ELITE REAGAN'. The variety is called 'REAGAN ELITE WHITE' in the enclosure. That catalog was first distributed in November 1998. Those pages are not a statutory disclosure of the invention. In re Le Grice, 133 USPQ 365 (CCPA 1962).

As to part c) of the requirement, the Examiner is informed that 'WHITE ELITE REAGAN' is registered in the Netherlands and at the CPVO. A Polish PBR registration also

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exists but this registration occurred at a time later than the denomination publication at the CPVO. The correct publication date of the denomination at the CPVO is August 17, 1998; see the enclosed copy of a pertinent June 23, 2005 letter from that agency to the Examiner. As noted in replies to 37 CFR 1.105 requirements in other cases owned by the instant assignee, one needs to have information regarding parentage of the plant in order to practice the invention. One is not given that information by the Dutch Office unless permission to do so is expressly given by the registrant, which permission CBA does not give.

As to part d) of the requirement, applicant respectfully submits that in order properly to reproduce a plant, one must have an awareness both of the parentage of the plant and a mode of propagation therefor. Here, both acts took place more than a year before the filing of the instant application in 2001. Applicant maintains, for the reasons given on pages 8 and 9 on the Brief on Appeal filed February 11, 2004, that the actions by the USPTO violate the UPOV convention.

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Allowance of the case is earnestly solicited.

Respectfully submitted,

STEPTOE & JOHNSON LLP

July 14, 2005
Date

CAW/ch



Charles A. Wendel
Registration No. 24,453

Atty Docket: 28967.0110

STEPTOE & JOHNSON LLP
1330 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 429-6415

Enclosures:

Pages from 1999 CBA Catalog
Copy of June 23, 2005 letter from CPVO



BEST AVAILABLE COPY

CATALOGUE

1999

**SPRAY CHRYSANTHEMUM • SANTINI • DISBUD
POT CHRYSANTHEMUM • MULTIFLORA • UNIFLORA**

SPRAY CHRYSANTHEMUM

WHITE

ANEMONE	Refour	7,5	White		White	01-32
	Relinda	7,5	White	CT	Green	01-32
	Rewinner	8	White	CT	Green	50-36
DAISY	NEW Reagan Elite White	7	White		Green	01-36
	NEW Reagan Mundo White	7,5	White	CT	Green	01-52
	Reagan White	7,5	White		Green	01-52
	Respectful	8	White		Yellow/Green	01-52
DECORATIVE	NEW Rebonnet	6,5	White		White	50-36
	Reveal	7	White		White/Green	01-52
SPIDER	Recital	8	White		White	50-32
	Reflect	8	White		White	01-36
	Reform	8,5	White		White	01-52

YELLOW • CREME

ANEMONE	Require	7	Yellow		Yellow	01-35
	Reaction	7,5	Yellow	CT	Yellow	01-52
	Relinda Yellow	7,5	Yellow	CT	Green	01-32
	Remco Yellow	7,5	Yellow	CT	Red	50-32
	Regatta	8	Yellow		Green	01-32
DAISY	NEW Lucky Lion Cream	6,5	Yellow	Cream	Green	01-52
	NEW Lucky Lion	6,5	Yellow		Green	01-52
	NEW Lucky Lion Sunny	6,5	Yellow	Dark	Green	01-52
	Reagan Cream	7,5	Yellow	Cream	Green	01-52
	Reagan Golden	7,5	Yellow	Golden	Green	01-52
	Reagan Lemon	7,5	Yellow	Lemon	Green	01-52
	NEW Reagan Mundo Yellow	7,5	Yellow		Green	01-52
	Reagan Sulphur	7,5	Yellow	Light	Green	01-52
	Reagan Sunny	7,5	Yellow	Dark	Green	01-52
	Reagan Yellow	7,5	Yellow		Green	01-52
	Reyellow	8	Yellow	Dark	Green	01-52
	Vyking	8	Yellow	Dark	Brown	01-36
	Regoltime	9	Yellow	Dark	Green	01-52
	NEW Vyron	9	Yellow	Orange	Brown	01-52
	NEW Vystar Improved	8,5	Yellow	Orange	Green	01-52
SPOON	Repulse Yellow	8	Yellow		Green	05-32

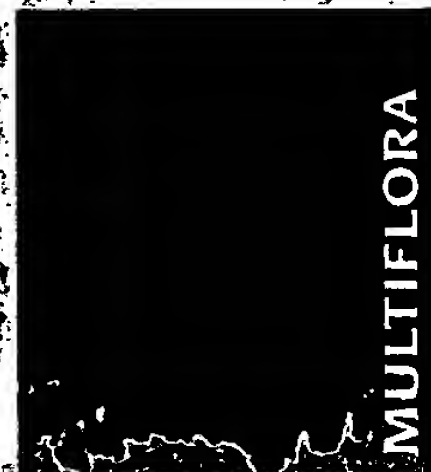
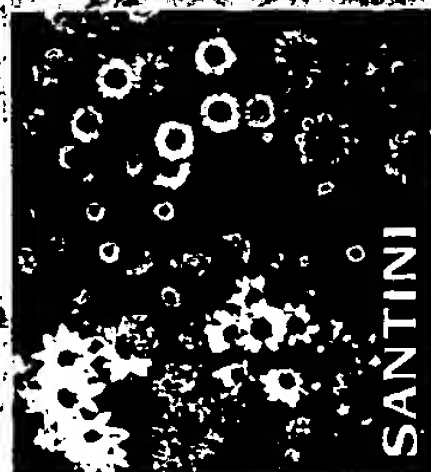
PINK • VIOLET • PURPLE • SALMON • APRICOT • CHERRY

ANEMONE	Remco Apricot	7,5	Apricot		Orange/Red	50-32
	Remco Lilac	7,5	Pink	Light	Red/Purple	50-32
DAISY	NEW Reagan Elite	7	Pink		Green	01-36
	Reagan Peach	7,5	Apricot	Dark	Green	01-52
	Reagan Cherry	7,5	Cherry		Green	01-52

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FROM OUR HEART...

As no other CBA knows that only the best is good enough. That is why our constant search for new and succesful varieties involves more than simply applying the latest breeding techniques; the grower's know-how and the opinion of traders and consumers are equally important. And of course, the



CBA offers a colourful and comprehensive range. In the chrysanthemum market, internationally well-known names such as Remix, Refocus and Relight have been top successes for many years. The daisy-type Reagan has even become the standard in every colour. But also new disbuds such as Residence, spoony-types as Repulse

INTO YOUR HANDS.

dedication of our people who work with heart and soul on developing the chrysanthemums of tomorrow. CBA's carefully selected spray chrysanthemums, santinis, dis-



buds, pot chrysanthemums and multifloras offer optimum yields to growers throughout the world. The guarantee for a colourful future. CBA. The art of breeding.

and potchrysanthemums as Tasman and Kompas have proved to be most successful. And this magnificent floral art is within easy reach of every grower!





European Union
Community Plant Variety Office

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Mrs. Anne-Marie Grunberg

United States Dept. of Commerce
Patent and Trademark Office
Commissioner for Patents
P.O. Box 1450
Alexandria
Virginia 22313-1450
USA

Our ref: rc/jm/50033w

Subject: **Observation to a submitted variety denomination**

Denomination

White Elite Reagan

Species

Chrysanthemum

Applicant (name and address)

Chrysanthemum Breeders Association
(the Netherlands)

Bulletin

Denomination proposed on 27th March 1997
according to the UPOV CD ROM no.
2/2005.

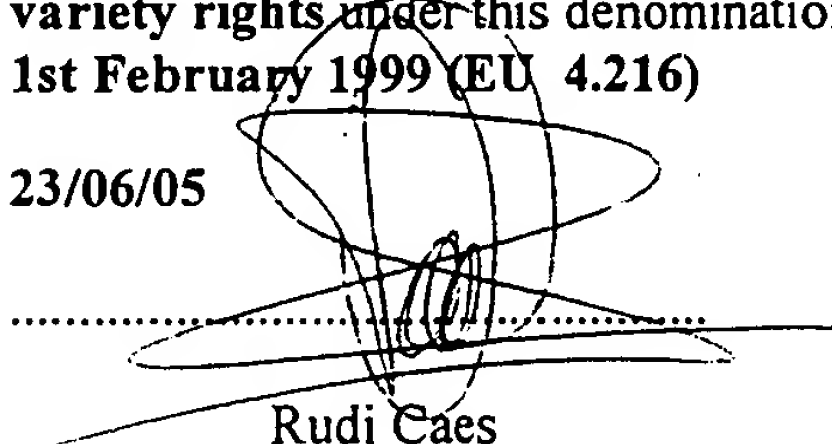
Observation

Please be informed that the information
contained in the UPOV CD ROM is
incorrect. This denomination (1997/0499)
was proposed on 18th June 1998,
published on 17th August 1998 and the
variety was granted European plant
variety rights under this denomination on
1st February 1999 (EU 4.216)

Date

23/06/05

Signature


Rudi Caes